

Docket No.: 3011-0002
File No. 1164.41428X003

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/384,182
Confirmation No. : 7469
Applicant : Kay et al.
Filed : August 27, 1999
TC/A.U. : 3627
Examiner : Andrew J. Fischer
Customer No. : 20457

RECEIVED
APR 12 2004
GROUP 3600

Title: ELECTRONIC COMMERCE SYSTEM ARCHITECTURE

TRANSMITTAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

April 8, 2004

Sir:

Transmitted herewith is a Communication and Conditional Notice of Appeal in the above-identified application.

☒ No additional fee is required.
☐ Also attached:

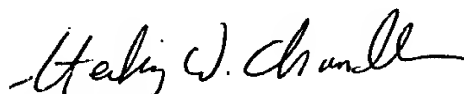
The fee (if applicable) has been calculated as shown below:

	NO. OF CLAIMS	HIGHEST PREVIOUSLY PAID FOR	EXTRA CLAIMS	RATE	FEE
Total Claims	20	20	0	x \$18 =	\$0
Independent Claims	3	3	0	x \$86 =	\$0
TOTAL FEE DUE					\$0

- ☐ A Credit Card Payment form in the amount of \$0 is attached
- ☒ Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment, to Deposit Account No. 01-2135, including any filing fees under 37 CFR 1.16 for presentation of extra claims and any patent application processing fees under 37 CFR 1.17.

Respectfully Submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP



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Title: ELECTRONIC COMMERCE SYSTEM ARCHITECTURE

COMMUNICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

April 8, 2004

Attention : Director John Love

Sir:

On January 8, 2004 an Amendment After Final was hand-filed in the above-identified case, responsive to an Official Action dated October 8, 2003. The Amendment After Final added no new matter. Rather, the amendment merely clarified certain claim language in two dependent claims, and corrected a punctuation error in another dependent claim. On February 9, 2004, after not having received a response from the USPTO to the January 8th filing, I contacted Examiner Andrew Fischer regarding the status of the Amendment After Final. Examiner Fischer indicated that the Amendment After Final had not been matched to the case file, he further indicated that the delay was most likely due to the new scanning procedure at the USPTO. He requested that a copy of the January 8th filing be faxed to him so that he could consider the filing. That same day I faxed Examiner Fischer a copy of the Amendment After Final.

Sometime in the first week of March 2004, after still not receiving a response to the Amendment After Final, I again contacted Examiner Fischer. In this conversation, Examiner Fischer informed me that he had not yet received the Amendment After Final for consideration, as he was on the Primary Examiner Review Program and thus the case file was not in his possession. He also indicated that the January 8th filing would be considered in due course.

On April 7, 2004, after still failing to receive a response to the Amendment After Final, I yet again contacted Examiner Fischer, stressing the importance of him fulfilling his obligations, as the six-month period for reply was set to expire. I inquired as to why Examiner Fischer failed to follow-up any of our prior conversations by considering the January 8th filing, especially in view him requesting a fax copy of the filing. Examiner Fischer stated that he did not receive the fax because all incoming faxes are matched to the appropriate file, not delivered to him. In view of this, the reason for Examiner Fischer's request for a fax copy of the January 8th filing is not understood.

In any event, Examiner Fisher then informed me that the January 8th filing had been received and matched with the file, but that he had yet to consider that response. The reason given for the lack of consideration was that the file had in fact been flagged for review by Director John Love as a part of Examiner Fischer's participation in the Primary Examiner Review Program. Examiner Fischer said that he would retrieve the file from Director Love's offices and then contact me regarding the file's status.

On April 8, 2004, the expiration date of the six-month period for reply, Examiner Fisher contacted me and indicated that he had retrieved the file and submitted the January 8th Amendment After Final for processing. He further indicated that it would be at least

the second full week of April before I could expect a response to the January 8th filing. He still further indicated that most likely he would deny entry of the Amendment After Final. However, he gave no reasons for the possible denial of entry and applicants question whether adequate consideration has been given to the Amendment After Final in what appears to be the time required for the Examiner to retrieve the application from the Director's office and advise that the Amendment After Final would probably be denied entry.

The instant application has been in prosecution since August of 1999, including an Appeal resulting in withdrawal of a previous final rejection. As the record shows, applicants have made every attempt to further allowance of the instant case.

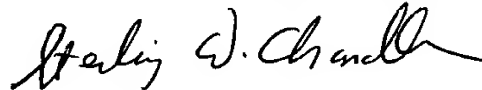
The Examiner has relied upon the same art throughout prosecution. As should be understood from the prior traversal arguments, including those made during Appeal, all the claims of the instant application are novel and unobvious, in addition to also being statutory and definite. In view of the prior traversal arguments and because an official response to the January 8th filing has yet to be received, applicants expect that all the claims of the instant application should be allowed by Examiner Fischer upon proper consideration of the January 8th filing. However, since today is the end of the six month statutory period for response without a formal response by the USPTO (three month delay), in the event that Examiner Fischer does not allow all the presently pending claims, this communication should be considered as a Notice of Appeal and applicants hereby appeal the final rejection of claims 29-47 and 61-73 as set forth in the Office Action of October 8, 2003 and authorize charging of any fees necessary, including extension of time fees and appeal fees, as set forth below, in order to avoid any question of abandonment of

the application. However, since the application should now be allowed, charging of fees should not be necessary and it is requested that charging of fees be held in abeyance until a proper determination of the allowability of the application is made.

To the extent necessary, Applicants petition for an extension of time under 37 CFR § 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to the Deposit Account No. 01-2135 (Case No. 1164.41428X00) and please credit any excess fees to such Deposit Account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

A handwritten signature in black ink, appearing to read "Sterling W. Chandler", is written over the printed name.

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